

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re U.S. Patent 6,353,038

Allan AHO et al.

Serial Number: 09/446,630

Issued: March 5, 2002

For: NOVEL PLASTIC BASED COMPOSITE AND ITS USE

**DECLARATION OF JAMES C. LYDON**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, James C. Lydon, declare as follows:

1. I am registered to practice before the U.S. Patent and Trademark Office, and am admitted to practice law in Virginia, New Jersey, Pennsylvania and the District of Columbia. My Patent Office registration number is 30,082.
2. I have worked with Turun Patenttitoimisto Oy ("Turun"), a Finnish intellectual property law firm, for more than 15 years to obtain U.S. patent protection for Finnish clients.
3. Turun requested that I file and prosecute U.S. patent application S.N. 09/446,630 ("the '630 application") on behalf of the inventors. I corresponded exclusively with Turun concerning the '630 application the filing and prosecution of the '630 application. On information and belief, Turun, in turn, corresponded with the inventors.

4. The '630 application issued on March 5, 2002 as Patent 6,353,038 ("the '038 patent"), and is assigned to Vivoxid Oy ("Vivoxid"), a Finnish company.
5. On information and belief, many of Turun's clients contract with Patrafee Oy AB ("Patrafee"), an annuity payment company, to handle their annuity and maintenance fee payments.
6. On information and belief, Patrafee paid the first maintenance fee for the '038 patent on behalf of Vivoxid. See Exhibit B.

**Facts Surrounding Non-Payment of the Second Maintenance Fee**

7. From time to time prior to June 9, 2009 I would receive a letter from Patrafee informing me a U.S. patent which I had prosecuted was to be abandoned by non-payment of the next maintenance fee. These letters recited the patent number, assignee and my docket number for that particular patent.
8. I received a letter dated June 9, 2009 from Patrafee which stated their client was no longer interested in maintaining the '038 patent. See Exhibit 8, which correctly lists the '038 patent number and my docket number (TUR-087) and identifies Vivoxid Oy as the assignee.
9. Exhibit 8 is typical of the letters I have received from Patrafee in the past. I did not question Patrafee's information, and simply placed Exhibit 8 in my file for the '038 patent.

10. On information and belief, Turun received a letter dated June 9, 2009 from Patrafee which confirmed the '038 patent was to be abandoned. See Exhibit 7, which indicates it is a copy of a letter sent to Mr. Jimmy Lucchesi, a Vivoxid employee.

11 I subsequently received a Maintenance Fee Reminder mailed October 12, 2009 which states the second maintenance fee for the '038 patent had not been paid within the six month period set forth in 37 C.F.R. § 1.362(d). See Exhibit 9.

12. I did not forward Exhibit 9 to Turun in view of Patrafee Oy's previous letter to me stating their client was no longer interested in maintaining the '038 patent (Exhibit 8, dated June 9, 2009).

13. I subsequently received a Notice of Patent Expiration mailed April 5, 2010 for the '038 patent. See Exhibit 10.

14. It is my practice to forward all patent expiration notices to my clients. Accordingly, I forwarded Exhibit 10 to Turun by letter dated April 20, 2010.

15. On information and belief, Turun did not forward Exhibit 10 to Vivoxid because Turun believed the '038 patent had been properly permitted to lapse in view of Patrafee's previous letter (Exhibit 7, dated June 9, 2009).

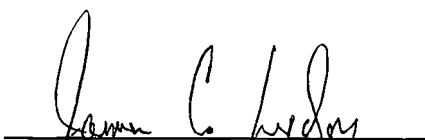
**Steps Taken to File Revival Petition**

16. On March 30, 2012, Mr. Kim Roering of Turun informed me that Vivoxid had just realized the '038 patent had expired for non-payment of the second maintenance fee, and that the abandonment was unintentional.

17. From March 30, 2012 to the present I have worked to prepare a grantable petition for late acceptance of the second maintenance fee for the '038 patent.

18. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. These statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the '038 patent.

Signed this 4<sup>th</sup> day of May, 2012.

  
James C. Lydon  
Reg. No. 30,082